
**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
PINE CELLULAR PHONES)	CC Docket No. 02-6
)	
Request for Review of Decision of)	
Universal Service Administrator)	

REQUEST FOR STREAMLINED REVIEW

Russell D. Lukas
Pamela L. Gist
Todd R. Slamowitz

LUKAS, LAFURIA, GUTIERREZ & SACHS, LLP
8300 Greensboro Drive, Suite 1200
Tysons, Virginia 22102
(703) 584-8678

Counsel for Pine Cellular Phones

October 23, 2018

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SUMMARY

Pine Cellular Phones (“Pine Cellular”) requests that the Wireline Competition Bureau (“WCB”) review on a streamlined basis and reverse the decision of the Universal Service Administrative Company (“USAC”) denying the appeals filed by Pine Cellular with respect to the actions of USAC’s Schools and Libraries Division (“SLD”) rejecting Pine Cellular’s Service Provider Invoice (“SPI”) forms for the special construction of leased lit fiber optic cable facilities for the Smithville I-14 School District (“Smithville”) and the Battiest Independent School District 71 (“Battiest”).

In early 2016, Smithville and Battiest (collectively, the “School Districts”) posted FCC Forms 470 soliciting proposals for the special construction of leased lit fiber facilities to schools in Smithville and Battiest, Oklahoma. Pine Cellular submitted the only bids to provide the special construction services requested by the School Districts for a total of \$1,733,020.

After the SLD approved the School Districts’ applications for a 90 percent discount under the E-rate program, Pine Cellular commenced construction of the fiber optic networks in February 2017. It completed construction of the networks in early May 2017. By June 13, 2017, Pine Cellular was providing 1.0 Gbps Internet access service to the School Districts over the specially-constructed fiber facilities.

On May 12, 2017, Pine Cellular submitted SPIs seeking reimbursement from USAC for the approved discounts of \$1,559,718 for the special construction projects for the School Districts. The SPIs languished before the SLD for nearly 10 months. At one point, Pine Cellular was informed by the SLD that its records indicated that there was a potential rule violation which may result in a commitment adjustment (“COMAD”). Finally, on March 5, 2018, the SLD notified Pine Cellular without explanation that its SPIs were not approved.

Pine Cellular emailed USAC asking for the reason for the SLD's decision and for the opportunity to discuss whether there was a remedy available that would obviate the need for appeals. USAC never responded. Consequently, on May 4, 2018, Pine Cellular was forced to appeal, not knowing why its SPIs had been rejected. Pine Cellular represented, and verified by declarations under penalty of perjury, that the fiber optic facilities had been constructed and lit for the School Districts prior to the end of the 2016 funding year.

Eight weeks after the appeals, the SLD informed Pine Cellular that its SPIs had not been held for a COMAD investigation, but because they requested upfront charges that had not been "properly notated" on FCC Forms 471 filed by the School Districts. Almost a month later, USAC issued a revised funding commitment decision letter ("RFCDL") denying Pine Cellular's appeals because it had "invoiced for services not delivered." To obviate the need for yet another appeal, Pine Cellular provided USAC with the declarations of the Superintendents of the School Districts attesting to the facts that Pine Cellular had constructed the fiber optic networks and was using the fiber to provide 1 Gbps Internet access service to the School Districts by June 21, 2017. It was only then that the SLD disclosed that the SPIs had been rejected because the School Districts had entered the incorrect service start date (July 1, 2017) on their FCC Forms 486 ("Forms 486").

The WCB should review the RFCDL *de novo* and reverse USAC, because the record evidence clearly shows that Pine Cellular invoiced for special construction services that it had delivered to the School Districts in a timely fashion. Moreover, penalizing Pine Cellular because the School Districts listed an obviously incorrect service start date on their Forms 486 was inconsistent with WCB precedent that makes listing an incorrect service start date a minor procedural error not warranting the denial of E-rate funding. The WCB should employ its

streamlined process for reviewing USAC decisions, since the facts are not in dispute and the issues can be easily resolved consistent with WCB precedent.

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REQUEST FOR STREAMLINED REVIEW

Pine Cellular Phones (“Pine Cellular”), by its attorneys and pursuant to §§ 54.719(b) and 54.222 of the Commission’s rules (“Rules”), hereby requests that the Wireline Competition Bureau (“WCB”) review on a streamlined basis and reverse the decision of the Universal Service Administrative Company (“USAC”)¹ denying the appeals filed by Pine Cellular with respect to the actions of USAC’s Schools and Libraries Division (“SLD”) rejecting Pine Cellular’s invoices for the special construction of fiber optic cable facilities for the Smithville I-14 School District (“Smithville”) and the Battiest Independent School District 71 (“Battiest”). In support thereof, the following is respectfully submitted:

STANDING

By the RFCDL, USAC denied Pine Cellular’s appeals from the SLD’s decisions not to honor Funding Commitment Decision Letters (“FCDLs”) under which Pine Cellular would have been paid approximately \$1.56 million under the schools and libraries (“E-rate”) universal service mechanism. Obviously, Pine Cellular was aggrieved by USAC’s action and, therefore, has

¹ See Revised Funding Commitment Decision Letter from USAC to Jane Merz at 6 (July 25, 2018) (“RFCDL”). The RFCDL is attached as Exhibit 1. On September 18, 2018, Pine Cellular requested that the Commission extend the time within which to seek Commission review of the RFCDL to October 23, 2018. See Motion for Extension of Time, CC Docket No. 02-6, at 2 (Sept. 18, 2018) (“Motion”). The Commission has not acted on the Motion.

standing to seek review of that action under § 54.719(b) of the Rules.

FACTS

A. The Smithville Project

Pine Cellular is an Eligible Telecommunications Carrier, headquartered in Broken Bow, Oklahoma. With business offices in Idabel, Talihina, Clayton, Hugo, and Antlers, Oklahoma, Pine Cellular provides cellular, Lifeline, high-speed Internet access, and broadband services throughout southeastern Oklahoma.

On or about January 12, 2016, Smithville posted an FCC Form 470 (“Form 470”) soliciting a proposal for special construction of leased lit fiber facilities to schools located at 100 Main Street, Smithville, Oklahoma. Pine Cellular submitted a bid to provide the special construction services requested by Smithville for \$910,000. Pine Cellular was the only service provider that bid on the Smithville project.

In May 2016, Smithville submitted an FCC Form 471 (“Form 471”) seeking a 90 percent E-rate discount (\$819,000) for Pine Cellular’s special construction charges. Smithville notified the SLD that the start date for the special construction would be July 1, 2016 and that construction would end on June 30, 2017.²

Issuance of funding year 2016 FCDLs were significantly delayed due to “technical and operational challenges.” *E.g., Utah Education and Telehealth Network*, 2018 WL 2148325, at *1 (¶ 3) (TAPD May 8, 2018). On December 12, 2016, Pine Cellular was informed by Smithville that its application for a 90 percent discount had been approved by the SLD.

Pine Cellular designed the system and commenced the installation of fiber optic cable to Smithville’s premises in February 2017. It buried approximately 91,000 feet (approximately 17

² A copy of Smithville’s Form 471 is attached hereto as Exhibit 2.

miles) of cable, which involved splicing the cable and boring underneath the Eagle Fork Creek and the Boktuklo Creek. Pine Cellular completed the project in early May 2017. After the facilities were tested, Pine Cellular put the fiber optic network into operation in June 2017, providing Smithville with 1.0 Gbps symmetrical Internet access.

On May 12, 2017, Pine Cellular submitted an FCC Form 474 (“Form 474”), Service Provider Invoice (“SPI”) form, online seeking reimbursement from USAC for the approved discount of \$819,000 for the special construction project for Smithville.³ The SPI gave the Customer Billed Date (“CBD”) as May 1, 2017. *See infra* Ex. 3 at 2/5.

B. The Battiest Project

On February 24, 2016, Battiest posted a Form 470 soliciting a proposal for special construction of fiber facilities to two schools located – in a “very rural” area – at 100 South Main Street, Battiest, Oklahoma. Pine Cellular submitted a bid to provide the special construction services requested by Battiest for \$870,000. Battiest subsequently informed Pine Cellular that its bid had been selected, and that Battiest’s application for a 90 percent discount under the E-rate program had been approved by USAC.

Pine Cellular designed the system and commenced the installation of fiber optic cable to Battiest’s premises in February 2017. It buried approximately 58,000 feet (nearly 11 miles) of cable, which involved splicing the cable and boring underneath the Glover River. The construction proved difficult because of the rocky terrain and the lack of a right of way. Pine Cellular completed the project in early May 2017. After the facilities were tested, Pine Cellular put the fiber optic network into operation in June 2017, providing Battiest with 1.0 Gbps symmetrical Internet access.

On May 12, 2017, the same day it filed an SPI for the completed Smithville project, Pine

³ A screen shot of Pine Cellular’s SPI for the Smithville project is provided as Exhibit 3.

Cellular submitted an SPI requesting reimbursement from USAC for the approved discount of \$740,718 for the Battiest special construction project.⁴ As was the case with the Smithville SPI, the Form 474 for the Battiest project gave the CBD as May 1, 2017. *See infra* Ex. 4 at 2/5.

C. The SPI Review Process

Pine Cellular’s two SPIs languished before the SLD from May 12, 2017 to March 5, 2018. During that nearly ten-month period of repose, Pine Cellular made at least 15 telephone calls to the SLD seeking information about the SPIs. The following table lists the calls and either the SLD’s responses to Pine Cellular’s inquiries or the results of the calls.

DATE	TIME	RESPONSE/RESULT
June 2, 2017	11:08 am	SPIs under review, which could take up to 30 days
July 5, 2017	9:37 am	Invoices still under review
July 18, 2017	4:11 am	Since pending more than 60 days, SPIs would be escalated to upper management
July 31, 2017	9:41 am	SPIs still under review
Oct. 4, 2017	10:30 am	Under review for compliance with no other documents needed
Nov. 16, 2017	9:47 am	Under review, but will be escalated to upper management
Dec. 8, 2017	3:15 pm	No update, but no more information needed
Dec. 11, 2017	11:14 am	(Left message)
Dec. 15, 2017	8:38 am	Would call with information that day or the following Monday
Jan. 16, 2018	2:21 pm	(On hold for 22 minutes; no one answered)
Jan. 23, 2018	9:36 am	Sending SPIs to a person in a higher position with a request for a call-back
Jan. 30, 2018	11:27 am	Still no answer from person in upper management
Feb. 2, 2018	11:07 am	Should file a complaint, because invoice had been assigned to the same person since Dec.15, 2017
Feb. 5, 2018	2:30 pm	Promised help and to call back on Feb. 6, 2018 at 2:30 pm
Feb. 7, 2018	12:41 pm	(Discussed promise to help)

By emails sent on February 12, 2018 and February 16, 2018, the SLD requested copies of Pine Cellular’s monthly invoices to Smithville and Battiest (collectively, the “School Districts”). The latter email included the request that Pine Cellular “provide: Contract and installment payment

⁴ Exhibit 4 hereto is a screen shot of Pine Cellular’s Form 474 for the Battiest special construction project.

plan for Applicant's non-discounted share of special construction charges. Required information: payment frequency and amount due for each period.”⁵ Pine Cellular provided the requested invoices and, on February 21, 2018, informed the SLD that there were no contracts, and that the installment payment plans called for Smithville to pay \$1,895.84 per month for 48 months, and for Battiest to make 48 monthly payments \$1,812.50. The SLD also was informed that Pine Cellular was attempting to have the schools' non-discounted share of the special construction charges paid by the Oklahoma Universal Service Fund.⁶

On March 5, 2018, USAC notified Pine Cellular that its requests for payments of \$819,000 and \$740,718 were not approved.⁷ No explanation was given for the decision to reject Pine Cellular's SPIs.

USAC advises parties that, before they file an appeal, they should “[c]ontact us,” because “[t]here may be an administrative remedy that does not require a formal appeal decision, such as disputes for invoice rejections.”⁸ Pine Cellular contacted the SLD and was informally advised that its invoices had been rejected because it did not have a contract with Smithville or Battiest. It subsequently contacted the SLD,⁹ and ultimately USAC,¹⁰ to learn the reason for the SLD's decision, and to discuss whether there was a remedy available that would obviate the need for

⁵ Email from Tammy Carnevale to Jane Merz, Lee Brown & Candice Smith (Feb. 16, 2018).

⁶ The School Districts are not seeking additional E-rate matching funding in accordance with § 54.505(f) of the Rules.

⁷ Exhibit 5 hereto consists of copies of the email that USAC's Customer Operations team sent to Pine Cellular on March 5, 2018 and the “electronic disbursement statement” that was attached to the email. The attachment is an “SL SPI Electronic Remittance” indicating that the discounted invoice amounts of \$819,000 and \$740,718 were “not approved” as of March 5, 2018.

⁸ USAC, About USAC, Appeals & Audits, at 2, <https://www.usac.org/about/program-integrity/appeals.aspx> (visited Apr. 29, 2018).

⁹ See, e.g., Email from Jane Merz to Tammy Carnevale (Apr. 17, 2018).

¹⁰ See Email from Russell Lukas to Johnnay Schrieber (Apr. 30, 2018).

appeals. Pine Cellular was never given an explanation for the SLD's action prior to the deadline to appeal.

D. The Appeals

On May 4, 2018, Pine Cellular timely submitted nearly-identical requests that USAC review the SLD's decision to reject the SPIs for the special construction charges for the Smithville and Battiest projects.¹¹ Proceeding on the assumption that its SPIs had been rejected because the parties had no signed contracts for the special construction, Pine Cellular argued that signed contracts were not required under § 54.504(a) of the Rules,¹² and that it had legally binding agreements with the School Districts.¹³ However, in the event that its assumption was incorrect, and the SLD had "acted for reasons yet unknown," Pine Cellular asked that it be afforded a reasonable opportunity to cure any deficiencies that the SLD may have found in the Forms 474.¹⁴

Pine Cellular represented that it completed the construction of the fiber optic networks for the School Districts in early May 2017, and that it began providing 1 Gbps Internet access services to the schools over the fiber networks in June 2017.¹⁵ The truth of those representations was attested to by the declarations under penalty of perjury of Pine Cellular's General Manager, Jerry Whisenhunt. By his declarations, Mr. Whisenhunt effectively verified that the fiber had been lit by the end of the 2016 funding year, thereby meeting the so-called "implementation deadline for

¹¹ See Letter of Appeal from Russell D. Lukas, Pamela L. Gist & Todd R. Slamowitz to SLD – Correspondence Unit, FRN 1699100164 (May 4, 2018) ("Smithville Appeal"); Letter of Appeal from Russell D. Lukas, Pamela L. Gist & Todd R. Slamowitz to SLD – Correspondence Unit, FRN 1699068414 (May 4, 2018) ("Battiest Appeal"). The two letters of appeal are incorporated herein by this reference.

¹² See Smithville Appeal at 4-5; Battiest Appeal at 4-5.

¹³ See Smithville Appeal at 6-7; Battiest Appeal at 6-7.

¹⁴ Smithville Appeal at 7; Battiest Appeal at 7.

¹⁵ See Smithville Appeal at 2; Battiest Appeal at 2.

special construction” for both the Smithville and Battiest projects. *Jemez Pueblo Tribal Consortium*, 2017 WL 6261543, at *1 (¶ 2) (TAPD Dec. 6, 2017).

E. The RFCDL

On or about June 29, 2018, approximately eight weeks after Pine Cellular filed its appeals, Pine Cellular’s Accounting Supervisor, Jane Merz, received the following notification from USAC:

Jane. Thank you for contacting USAC regarding your invoices. I apologize for the confusion and the length of time this case went unanswered. Your invoices were not being held due to a COMAD investigation. It appears the invoices were requesting upfront charges that were not properly notated on the ... Form 471. Since these requests were for an FY 2016 application the window has now closed, but you are able to file an appeal with the FCC to grant you an extension due to misinformation. If you have any questions or believe this case was closed in error, please contact CSB at (888) 203-8100.¹⁶

Almost a month later, USAC issued the RFCDL denying Pine Cellular’s appeals. Without addressing the merits of the appeals, USAC offered yet another “rationale” for refusing to reimburse Pine Cellular:

During the invoice review, reimbursement can only be issued for services that were approved during the ... Form 471 review process and rendered. It was determined that you invoiced for services not delivered. Reimbursement can be made for services when they have been rendered.¹⁷

F. Subsequent Events

Knowing that it had rendered the construction services that had been approved during the Form 471 review process, Pine Cellular obtained the declarations under penalty of perjury of Smithville’s Superintendent, Delbert McBroom, and Battiest’s Superintendent, Don Mullinex, that

¹⁶ A copy of the notification that Pine Cellular received is attached hereto as Exhibit 6. On December 22, 2017, the SLD informed Ms. Merz that its “records indicate there is a potential rule violation that is being reviewed and which may result in a commitment adjustment (COMAD).” Ex. 6, *infra*, at 2.

¹⁷ RFCDL at 5, 6 (Ex. 1, *infra*, at 5, 6).

verified that Pine Cellular had constructed the fiber optic facilities to the two schools in timely fashion.¹⁸ According to Messrs. McBroom and Mullinex, the Smithville fiber was lit on June 13, 2017 and the Battiest fiber was put in use on June 21, 2017.¹⁹

Armed with the McBroom and Mullinex declarations, Pine Cellular again reached out to the SLD. On August 22, 2018, after being advised that the SLD would not reconsider the RFCDL and that the matter had to be appealed, undersigned counsel gave copies of the declarations to the SLD to show that it had erred when it had determined that the special construction services had not been delivered.²⁰ Counsel asked the SLD to confirm that it denied Pine Cellular's appeals solely because of its determination that the services had not been rendered, and to explain the bases for its determination.²¹ The SLD never responded to that request. It was only after counsel requested a meeting with the staff of the Telecommunications Access Policy Division that the SLD began communicating with Pine Cellular.²²

On or about September 11, 2018, the SLD informed Pine Cellular that the School Districts had entered incorrect service start dates on their FCC Forms 486 ("Forms 486"). It appears that Smithville filed its Form 486 for Funding Request Number ("FRN") 1699100164 giving July 1, 2017 as the service start date, when June 30, 2017 was the service end date. *See infra* Exhibit 9 at 1, 3. Battiest also gave June 30, 2017 as the service start date with respect to its FRN 1699068414. *See infra* Exhibit 10 at 1, 2.

¹⁸ *See* Declaration of Delbert McBroom at ¶ 2 (Aug. 6, 2018) ("McBroom Declaration"); Declaration of Don Mullinex at ¶ 2 (Aug. 6, 2018) ("Mullinex Declaration"). A copy of the McBroom Declaration is attached as Exhibit 7. The Mullinex Declaration is Exhibit 8.

¹⁹ *See* McBroom Declaration at ¶ 3 (Ex. 7, *infra*, at ¶ 3); Mullinex Declaration at ¶ 3 (Ex. 8, *infra*, at ¶ 3).

²⁰ *See* Email from Russell D. Lukas to Tammy Carneval (Aug. 22, 2018).

²¹ *See id.* *See also* Email from Russell D. Lukas to Catriona Ayer (Aug. 25, 2018).

²² *See* Email from Russell D. Lukas to Gabriela Gross (Sept. 10, 2018); email from Gabriela Gross to Russell D. Lukas (Sept. 10, 2018); Email from Russell D. Lukas to Gabriela Gross (Sept. 11, 2018).

It appears that the delay in issuing the FCDLs to the School Districts may have contributed to the entry of the wrong service start dates on the Forms 486. According to Teresa Erickson, who prepared the Form 486 for Smithville, and Candace Smith, who did the same for Battiest, the E-rate approval process took so long that they were already working on E-rate projects for Funding Year 2017 when they completed the Forms 486, which could explain why they accidentally gave July 1, 2017 as the service start date.²³

Pine Cellular was informed by the SLD that it was working with the schools to correct the Forms 486 so that Pine Cellular could resubmit its SPIs. However, it was advised that the SLD may not be able to take the necessary corrective actions prior to the September 24, 2018 deadline for Pine Cellular to request Commission review under § 54.720(a) of the Rules.²⁴ Accordingly, Pine Cellular requested a 30-day extension of the deadline in order to afford the SLD adequate time to take corrective action, and to preserve Pine Cellular's right to appeal in the event that SLD failed to resolve the matter in a timely fashion.²⁵ The SLD recently advised Pine Cellular that it would have to file this request for review.

ISSUES

The questions presented for review are whether: (1) the SLD erred by failing to allow the School Districts to promptly correct obvious, minor errors in their Forms 486; (2) USAC erred when it found that Pine Cellular had invoiced for service that it had not delivered; and (3) USAC ignored Commission precedent that held that listing an incorrect service start date on a Form 486 is a minor mistake that does not warrant the complete rejection of an application.

²³ See Email from Teresa Erickson to Jerry Whisenhunt (Oct. 16, 2018) (copy attached as Exhibit 11); Email from Candace Smith to Jerry Whisenhunt (Oct. 16, 2018) (copy attached as Exhibit 12).

²⁴ See Motion at 2.

²⁵ See *id.*

ARGUMENT

I. USAC’S FINDING THAT PINE CELLULAR INVOICED FOR SERVICES THAT HAD NOT BEEN RENDERED WAS CLEARLY ERRONEOUS

To date, the SLD has offered at least five explanations for not reimbursing Pine Cellular: (1) the lack of contracts with the School Districts, *see supra* p. 5; (2) the matter was being reviewed for a potential rule violation that may result in a COMAD, *see infra* Ex. 5 at 2; (3) the invoices were for upfront charges that were not properly notated on the Forms 471, *see id.*; (4) the invoices were for services not delivered, *see infra* Ex. 1 at 5, 6; and (5) the School Districts had entered the incorrect start dates on their Forms 486. *See supra* p. 8. It is the fourth explanation that must undergo *de novo* review, for that is the one USAC provided in the RFCDL. *See* 47 C.F.R. § 54.723.

The administrative record contains probative evidence establishing that Pine Cellular invoiced for special construction services that it had delivered to the School Districts in a timely fashion. *See* Smithville Appeal at 2; Battiest Appeal at 2. *See infra* Ex. 2 at 3/5; Ex. 3 at 3/5. Apparently, the only evidence to the contrary is the obviously incorrect service start dates listed on the School Districts’ Forms 486.²⁶ A non-deferential review of the administrative record in this proceeding must lead to the finding that USAC erred when it determined that Pine Cellular invoiced for special construction services that it had not delivered. USAC must be reversed.

II. THE SUBMISSION OF INCORRECT SERVICE START DATES BY THE SCHOOL DISTRICTS WERE MINOR MISTAKES THAT DID NOT WARRANT THE REJECTION OF PINE CELLULAR’S INVOICES

When school districts inadvertently submit the incorrect service start date when filing their

²⁶ Smithville listed a service start date (July 1, 2017) that was after the service end date (June 30, 2017). *See infra* Ex. 9 at 1, 3. Battiest gave July 1, 2017 as the service start date and June 30, 2017 as the contract expiration date and the service delivery deadline. *See infra* Exhibit 10 at 1.

Forms 486, the WCB consistently held that “minor mistakes such as this do not warrant the complete rejection” of an application “given that the applicant made a procedural error and did not violate a ... [R]ule.” *State of Arkansas Department of Information Systems*, 26 FCC Rcd 12729, 12730 (¶ 3) (TAPD 2011); *Cornwall-Lebanon School District*, 26 FCC Rcd 12547, 12547 (¶ 1) (TAPD 2011); *Barrow County School District*, 26 FCC Rcd 4028, 4028 (¶ 2) (TAPD 2011). *See Los Lunas School District*, 27 FCC Rcd 204, 204 (¶ 1) (TAPD 2012) (school district “inadvertently listed the wrong service start information on its ... Form 486,” which was deemed a minor mistake that did not “warrant the complete rejection of an application” given the applicant “made a minor procedural error and did not violate any ... [R]ule”). *See also Dulce School District*, 29 FCC Rcd 3122, 3122 (¶ 2) (TAPD 2014) (two requests for review granted where petitioners “inadvertently submitted the incorrect service start date when filing their ... Forms 486”); *Audubon Regional Library*, 27 FCC Rcd 13119, 13119 (¶ 1) (TAPD 2012) (four requests for review granted where petitioners “inadvertently submitted the incorrect service start date when filing [Forms 486]”); *Harvey Public Library District*, 23 FCC Rcd 15419, 15421 (¶ 5) (TAPD 2008) (USAC’s procedures waived where applicant “committed an unintentional, clerical error when it listed the incorrect service start date on its ... Form 486”); *Glendale Unified School District*, 21 FCC Rcd 1040, 1042 (¶ 5) (TAPD 2006) (same). Indeed, on September 28, 2018, the WCB announced that it had granted, on a streamlined basis, a waiver requested by the Boulder Preparatory High School (“Boulder Prep”) (Application No, 161048850) to remedy an incorrect service start date listed on a Form 486. *See Streamlined Resolution of Requests Related to Actions by USAC*, 2018 WL 4678558, at *2 & n.10 (WCB Sept. 28, 2018).

According to the SLD, USAC denied Pine Cellular’s appeals – effectively denying its requests for reimbursement – simply because the School Districts had made the minor mistake of

listing incorrect service start dates on their Forms 486. Thus, Pine Cellular is being penalized because of procedural errors committed by the School Districts that did not involved a violation of a Rule and would not have warranted the denial or reduction of E-rate funding. *See Dulce*, 29 FCC Rcd at 3122 (¶ 2); *Los Lunas*, 27 FCC Rcd at 204 (¶ 1); *Arkansas Department of Information*, 26 FCC Rcd at 12730 (¶ 3); *Cornwall-Lebanon*, 26 FCC Rcd at 12547 (¶ 1); *Barrow County*, 26 FCC Rcd at 4028 (¶ 2). Consistent with precedent that make the listing of an incorrect service start date on a Form 486 a minor, inconsequential mistake, the WCB should grant this request and remand Pine Cellular's SPIs to USAC with instructions to reimburse Pine Cellular in the amount of \$1,559,718.

III. THE WCB SHOULD ACCELERATE ITS GRANT OF THIS REQUEST

The WCB should grant this request employing its streamlined process for reviewing USAC decisions that do not involve complicated or controversial issues that cannot be resolved consistent with precedent. *See Streamlined Process for Resolving Requests for Review of Decisions by USAC*, 29 FCC Rcd 11094, 11094 (WTB 2014). As we have shown, the facts are not in dispute, and the issues can be easily resolved consistent with WCB precedent.

Expeditious action is warranted in this case to mitigate the harm that Pine Cellular continues to suffer at the hands of USAC. After informing Pine Cellular in June 2017 that it could take up to 30 days for the SLD to review the SPIs, the SLD sat on the SPIs for no less than 276 days.²⁷ Pine Cellular would not have incurred the expense of filing three appeals if the SLD had correctly identified the errors in the Forms 486 during the 276-day review process, informed the

²⁷ *See supra* p. 6 (table). The SLD informed Pine Cellular of the 30-day review period on June 2, 2017. The SLD rejected the SPIs on March 5, 2018.

School Districts of their errors, and simply allowed them to correct their mistakes.²⁸ At the very least, Pine Cellular would have avoided making irrelevant arguments in its May 4, 2018 appeals if it had been told why its SPIs had been rejected.

Instead of waiting until June 29, 2018 to “apologize for the confusion and the length of time [Pine Cellular’s inquiries] went unanswered,”²⁹ the SLD should have answered Pine Cellular’s appeals by recognizing that Pine Cellular had, in fact, invoiced for services that it had delivered, and that there were no defects in its SPIs. In that case, USAC would not have issued the clearly erroneous RFCDL.

Finally, Pine Cellular would not have incurred the expense of filing this request for WCB review had the SLD used the 30-day extension of the appeal deadline to have the Forms 486 corrected and Pine Cellular reimbursed. The SLD’s failure to do so left Pine Cellular still waiting to be paid \$1.6 million for work it completed over 16 months ago. The WCB should not keep Pine Cellular waiting much longer.

Recently, the WCB took only 35 days to announce that it had granted Boulder Prep’s request for a waiver to remedy an incorrect service start date. *See Streamlined Resolution*, 2018 WL 4678558, at *2 (request for a waiver was filed on August 24, 2018). The WTB should act as quickly here.

CONCLUSION

For all the foregoing reasons, Pine Cellular respectfully requests that the WCB grant this request on a streamlined basis and direct USAC to reimburse Pine Cellular in the amount of

²⁸ We have been informed that there was a meeting between representatives of the Schools, Health & Libraries Broadband Coalition and USAC on September 5, 2018, during which USAC’s CEO, Radha Sekar, pledged to improve the level of communication between USAC and applicants.

²⁹ Ex. 6, *infra*, at 2.

\$1,559,718.

Respectfully submitted,

/s/ Russell D. Lukas

Russell D. Lukas
Pamela L. Gist
Todd R. Slamowitz

LUKAS, LAFURIA, GUTIERREZ & SACHS, LLP
8300 Greensboro Drive, Suite 1200
Tysons, Virginia 22102
(703) 584-8678

Counsel for Pine Cellular Phones

October 23, 2018

EXHIBIT 1



Revised Funding Commitment Decision Letter

Funding Year 2016

Contact Information:

Jane Merz
Pine Cellular Phones
210 W 2nd St
P.O. Box 548
Broken Bow, OK 74728
jane@pinetelephone.com

SPIN: 143006198

Post Commitment Wave: 53

Totals

Original Commitment Amount	\$1,559,718.00
Revised Commitment Amount	\$1,559,718.00

What is in this letter?

Thank you for submitting your post-commitment request for Funding Year 2016 Schools and Libraries Program (E-rate) funding. Attached to this letter, you will find the revised funding statuses and/or post commitment changes to the original Funding Commitment Decision Letter (FCDL) you received. Below are the changes that were made:

- Appeals
- Appeals

The Universal Service Administrative Company (USAC) is providing this information to both the applicant(s) and the service provider(s) so that all parties are aware of the post-commitment changes related to their funding requests and can work together to complete the funding process for these requests.

Next Steps

1. **FCC Form 486.** If your applicant(s) has not already filed the FCC Form 486, Service Confirmation and Children's Internet Protection Act (CIPA) Certification Form, for any FRNs included in this RFCDL, please make sure they review CIPA requirements and file the form(s).



Service Provider: Pine Cellular Phones
SPIN: 143006198
Post Commitment Wave: 53

2. **Make sure your applicant(s) file the FCC Form 486, Service Confirmation and Children's Internet Protection Act (CIPA) Certification Form**, for any FRNs included in this RFCDL, if they have not already done so. Please make sure they review the CIPA requirements and file the form(s).
 - **If USAC approved funding on an FRN in your original FCDL**, the deadline to submit the FCC Form 486 is 120 days from the date of the original FCDL or from the service start date (whichever is later).
 - **If a new FRN was created for this RFCDL or funding was not approved on an FRN in your original FCDL but is approved in this RFCDL**, the deadline to submit the FCC Form 486 is 120 days from the date of this RFCDL or from the service start date (whichever is later).
3. **Invoice USAC**, if you or your applicant(s) have not already done so. Work with your applicant(s) to determine if you will bill them at a discounted rate or if they will request reimbursement from USAC after paying their bills in full.
 - **If the applicant is invoicing USAC:** They must pay you (the service provider) the full cost for the services they receive and file the [FCC Form 472](#), the Billed Entity Applicant Reimbursement (BEAR) Form, to invoice USAC for reimbursement of the discounted amount.
 - **If you (the service provider) are invoicing USAC:** You must provide services, bill the applicant for the non-discounted share, and file the [FCC Form 474](#), the Service Provider Invoice (SPI) form, to invoice USAC for reimbursement for the discounted portion of costs. Every funding year, you must file an [FCC Form 473](#), the Service Provider Annual Certification Form, to be able to submit invoices and receive disbursements.
 - **To receive an invoice deadline extension**, the applicant or service provider must request an extension on or before the last date to invoice. **If you anticipate, for any reason, that invoices cannot be filed on time**, USAC will grant a one-time, 120-day invoice deadline extension if timely requested.

How to Appeal or Request a Waiver of a Decision

You can appeal or request a waiver of a decision in this letter **within 60 calendar days** of the date of this letter. Failure to meet this deadline will result in an automatic dismissal of your appeal or waiver request.

Note: The Federal Communications Commission (FCC) will not accept appeals of USAC decisions that have not first been appealed to USAC. However, if you are seeking a waiver of E-rate program rules, you must submit your request to the FCC and not to USAC. USAC is not able to waive the E-rate program rules.

- **To submit your appeal to USAC**, visit the Appeals section in the [E-rate Productivity Center \(EPC\)](#) and provide the required information. USAC will reply to your appeal submissions to confirm receipt. Visit USAC's [website](#) for additional information on submitting an appeal to USAC, including step-by-step instructions.



Service Provider: Pine Cellular Phones
SPIN: 143006198
Post Commitment Wave: 53

- **To request a waiver of the FCC's rules or appeal USAC's appeal decision**, please submit it to the FCC in proceeding number CC Docket No. 02-6 using the [Electronic Comment Filing System](#) (ECFS). Include your contact information, a statement that your filing is a waiver request, identifying information, the FCC rule(s) for which you are seeking a waiver, a full description of the relevant facts that you believe support your waiver request and any related relief, and any supporting documentation.

For appeals to USAC or to the FCC, be sure to keep a copy of your entire appeal, including any correspondence and documentation, and provide a copy to the affected service provider(s).

Obligation to Pay Non-Discount Portion

Applicants are required to pay the non-discount portion of the cost of the eligible products and/or services to their service providers. Service providers are required to bill applicants for the non-discount portion of costs for the eligible products and/or services. The FCC stated that requiring applicants to pay the non-discounted share of costs ensures efficiency and accountability in the program. If using the BEAR invoicing method, the applicant must pay the service provider in full (the non-discount plus discount portion) **before** seeking reimbursement from USAC. If using the SPI invoicing method, the service provider must first bill the applicant **before** invoicing USAC.

Notice on Rules and Funds Availability

The applicants' receipt of funding commitments is contingent on their compliance with all statutory, regulatory, and procedural requirements of the Schools and Libraries Program and the FCC's rules. Applicants who have received funding commitments continue to be subject to audits and other reviews that USAC and/or the FCC may undertake periodically to assure that funds that have been committed are being used in accordance with such requirements. USAC may be required to reduce or cancel funding commitments that were not issued in accordance with such requirements, whether due to action or inaction, including but not limited to that by USAC, the applicant, or the service provider. USAC, and other appropriate authorities (including but not limited to the FCC), may pursue enforcement actions and other means of recourse to collect improperly disbursed funds.



Service Provider: Pine Cellular Phones
SPIN: 143006198
Post Commitment Wave: 53

Revised Funding Commitment Decision Overview

Funding Year 2016

Funding Request Number (FRN)	BEN Name	Request Type	Revised Committed	Review Status
1699068414	BATTIEST INDEP SCHOOL DIST 71	Appeals	\$740,718.00	Denied
1699100164	SMITHVILLE I-14 SCHOOL DISTRICT	Appeals	\$819,000.00	Denied



Service Provider: Pine Cellular Phones

SPIN: 143006198

Post Commitment Wave: 53

Post Commitment Request Number: 100752	Post Commitment Request Type: Appeals	Post Commitment Decision: Denied
--	---	--

FRN: 1699068414	Service Type: Data Transmission and/or Internet Access	Original Status: Funded	Revised Status: Funded
---------------------------	---	-----------------------------------	----------------------------------

Dollars Committed			
Monthly Cost		One-Time Cost	
Months of Service	0		
Total Eligible Recurring Charges	\$0.00	Total Eligible One Time Charges	\$823,020.00
Total Pre-Discount Charges		\$823,020.00	
Discount Rate		90.00%	
Revised Committed Amount		\$740,718.00	

Dates	
Service Start Date	7/1/2017
Contract Expiration Date	6/30/2017
Contract Award Date	4/21/2016
Service Delivery Deadline	6/30/2017
Expiration Date (All Extensions)	

Service Provider and Contract Information	
Service Provider	Pine Cellular Phones
SPIN (498ID)	143006198
Contract Number	
Account Number	580-241-7810
Establishing FCC Form 470	160033760

Billed Entity Information	
BEN Name	BATTIEST INDEP SCHOOL DIST 71
BEN	140293
FCC Form 471	161032874

Consultant Information	
Consultant Name	
Consultant's Employer	
CRN	

Revised Funding Commitment Decision Comments:

Post Commitment Rationale:

Your Appeal is denied. During the invoice review, reimbursement can only be issued for services that were approved during the FCC Form 471 review process and rendered. It was determined that you invoiced for services not delivered. Reimbursement can be made for services when they have been rendered.



Service Provider: Pine Cellular Phones
SPIN: 143006198
Post Commitment Wave: 53

Post Commitment Request Number: 100758	Post Commitment Request Type: Appeals	Post Commitment Decision: Denied
--	---	--

FRN: 1699100164	Service Type: Data Transmission and/or Internet Access	Original Status: Funded	Revised Status: Funded
---------------------------	---	-----------------------------------	----------------------------------

Dollars Committed			
Monthly Cost		One-Time Cost	
Months of Service	0		
Total Eligible Recurring Charges	\$0.00	Total Eligible One Time Charges	\$910,000.00
Total Pre-Discount Charges		\$910,000.00	
Discount Rate		90.00%	
Revised Committed Amount		\$819,000.00	

Dates	
Service Start Date	7/1/2017
Contract Expiration Date	6/30/2017
Contract Award Date	
Service Delivery Deadline	6/30/2017
Expiration Date (All Extensions)	

Service Provider and Contract Information	
Service Provider	Pine Cellular Phones
SPIN (498ID)	143006198
Contract Number	
Account Number	5802443333
Establishing FCC Form 470	160007790

Billed Entity Information	
BEN Name	SMITHVILLE I-14 SCHOOL DISTRICT
BEN	140421
FCC Form 471	161041646

Consultant Information	
Consultant Name	
Consultant's Employer	
CRN	

Revised Funding Commitment Decision Comments:

Post Commitment Rationale:

Your Appeal is denied. During the invoice review, reimbursement can only be issued for services that were approved during the FCC Form 471 review process and rendered. It was determined that you invoiced for services not delivered. Reimbursement can be made for services when they have been rendered.

EXHIBIT 2



Description of Services Ordered and Certification Form 471

FCC Form 471

Application Information

Nickname Pine Telephone Special Construction **Application Number** 161041646
Funding Year 2016 **Category of Service** Category 1

Billed Entity

SMITHVILLE I-14 SCHOOL DISTRICT
339 MAIN STREET SMITHVILLE OK 74957
580-244-3138
terickson@smithville.k12.ok.us

Contact Information

Teresa Erickson
580-244-3138
terickson@smithville.k12.ok.us

Billed Entity Number 140421
FCC Registration Number 0013342993
Applicant Type School District

Holiday/Summer Contact Information 5802443138 4792340743

Entity Information

School District Entity - Details

BEN	Name	Urban/ Rural	State LEA ID	State School ID	NCES Code	School District Attributes	Endowment
140421	SMITHVILLE I-14 SCHOOL DISTRICT	Rural	48I014			Public School District	None

Related Entity Information

Related Child School Entity - Details

BEN	Name	Urban/ Rural	State LEA ID	State School ID	NCES Code	Alternative Discount	School Attributes	Endowment
85369	SMITHVILLE ELEMENTARY SCHOOL	Rural					Pre-K	None
85370	SMITHVILLE JR-SR HIGH SCHOOL	Rural						None

Related Child School Entity - Discount Rate Calculation Details

BEN	Name	Urban/ Rural	Number of Students	Students Count Based on Estimate	CEP Percentage
85369	SMITHVILLE ELEMENTARY SCHOOL	Rural	0	N/A	
85370	SMITHVILLE JR-SR HIGH SCHOOL	Rural	0	N/A	

Discount Rate

School District Enrollment	School District NSLP Count	School District NSLP Percentage	School District Urban/ Rural Status	Category One Discount Rate	Category Two Discount Rate	Voice Discount Rate
281	232	83.0%	Rural	90%	85%	50%

Funding Request for FRN #1699100164

Funding Request Nickname: Pine Telephone Special Construction

Service Type: Data Transmission and/or Internet Access

Fiber Request Key Information

**Dark Fiber, Self-Provisioned Network
or Special Construction?** Yes

**Is this FRN supporting leased lit fiber, dark
fiber or self-provisioned new or existing
fiber?** Lit Fiber

FRN Key Information for Special Construction

Total Project Plant Route Feet 91000 **Total Strands** 144

Average Cost per foot of outside plant \$8.96 **Number of E-rate Eligible Strands** 4

Is state or tribal match available for this FRN? No

**Does the FRN include an installment payment agreement
for special construction charges?** Yes

Total Amount Financed	Annual Interest Rate, if applicable	Total Terms (in Months)
\$910,000.00		48

**Does this installment agreement
include a balloon payment?** No

Agreement Information - Month-to-Month

Establishing FCC Form 470 160007790

Account Number 5802443333

**Was an FCC Form 470 posted
for the product and/or services
you are requesting?** Yes

Service Provider Pine Cellular Phones (SPN:
143006198)

**How many bids were received
for this contract?** 1

When will the services end? June 30, 2017

What is the service start date? July 01, 2016

Pricing Confidentiality

Is there a statute, rule, or other restriction which prohibits publication of the specific pricing information for this contract? No

Narrative

Special construction of 91000 feet of fiber facilities to provide fiber fed internet access to Smithville school. This request is for special construction only, because it will be too great of a project to finish in the time frame needed to provide Smithville School with monthly Internet access for the 2016-2017 school year, therefore; we have requested our monthly Internet service through another provider for the 2016-2017 school year.

Line Item # 1699100164.001

Product and Service Details

Purpose

Data connection(s) for an applicant's hub site to an Internet Service Provider or state/regional network where Internet access service is billed separately

Function

Fiber

Type of Connection

Switched Multimegabit Data Service

Bandwidth Speed

Upload Speed

1.0 Gbps

Download Speed

1.0 Gbps

Connection Information

Does this include firewall services?

No

Is this a connection between eligible schools, libraries and NIFs (i.e., a connection that provides a "Wide area network")?

No

Is this a direct connection to a single school, library or a NIF for Internet access?

No

Connection Used by

All buildings/sites listed

Cost Calculation for FRN Line Item # 1699100164.001

Monthly Cost	
Monthly Recurring Unit Cost	\$0.00
Monthly Recurring Unit Ineligible Costs	- \$0.00
Monthly Recurring Unit Eligible Costs	= \$0.00
Monthly Quantity	x 1
Total Monthly Eligible Recurring Costs	= \$0.00
Months of Service	x 12
Total Eligible Recurring Costs	= \$0.00

One-Time Cost	
One-time Unit Cost	\$910,000.00
One-time Ineligible Unit Costs	- \$0.00
One-time Eligible Unit Cost	= \$910,000.00
One-time Quantity	x 1
Total Eligible One-time Costs	= \$910,000.00
Summary	
Total Eligible Recurring Costs	\$0.00
Total Eligible One-time Costs	+ \$910,000.00
Pre-Discount Extended Eligible Line Item Cost	= \$910,000.00

Recipients of Services

BEN	Name
85369	SMITHVILLE ELEMENTARY SCHOOL
85370	SMITHVILLE JR-SR HIGH SCHOOL

FRN Calculation for FRN #1699100164

One-Time Charges	
Total One-Time Charges	\$910,000.00
Total Ineligible One-Time Charges	- \$0.00
Total Eligible Pre-Discount One-Time Charges	= \$910,000.00

Total Requested Amount	
Total Pre-Discount Charges	\$910,000.00
Special Construction State/Tribal Match Percentage	
Special Construction State/Tribal Match Discount Rate*	90%
Funding Commitment Request	= \$819,000.00

Connectivity Questions

District/System-wide Internet Access Questions

Does your school district currently aggregate Internet access for the entire district(as opposed to buying Yes Internet access on a building-by-building basis)?

Download Speed 50.00 Download Speed Units Mbps

Upload Speed 50.00 Upload Speed Units Mbps

Per Entity Basis Questions

Entity Name SMITHVILLE I-14 SCHOOL DISTRICT Entity Number 140421

BEN	Entity Name	Download	Units	Upload	Units	Connection	Wifi Sufficient	Barriers to Robust Network
85369	SMITHVILLE ELEMENTARY SCHOOL	50.00	Mbps	50.00	Mbps	Fiber	Mostly	Equipment too costly
85370	SMITHVILLE JR-SR HIGH SCHOOL	50.00	Mbps	50.00	Mbps	Fiber	Mostly	Equipment too costly

Certifications

I certify that the entities listed in this application are eligible for support because they are schools under the statutory definitions of elementary and secondary schools found in the No Child Left Behind Act of 2001, 20 U.S.C. §§ 7801(18) and (38), that do not operate as for-profit businesses and do not have endowments exceeding \$50 million.

I certify that the entity I represent or the entities listed on this application have secured access, separately or through this program, to all of the resources, including computers, training, software, internal connections, maintenance, and electrical capacity, necessary to use the services purchased effectively. I recognize that some of the aforementioned resources are not eligible for support. I certify that the entities I represent or the entities listed on this application have secured access to all of the resources to pay the discounted charges for eligible services from funds to which access has been secured in the current funding year. For entities I represent or the entities listed on this application that enter into installment payments with their service providers for the non-discounted portion of special construction costs, I certify that they are able to make all required installment payments. I certify that the Billed Entity will pay the non-discount portion of the cost of the goods and services to the service provider(s).

Total Funding Summary

Below is a summary of the total line item costs on this FCC Form 471:

Summary	
Total funding year pre-discount eligible amount on this FCC Form 471	\$910,000.00
Total funding commitment request amount on this FCC Form 471	\$819,000.00
Total applicant non-discount share of the eligible amount	\$91,000.00
Total budgeted amount allocated to resources not eligible for E-rate support	\$75,000.00
Total amount necessary for the applicant to pay the non-discount share of eligible and any ineligible amounts	\$166,000.00
Are you receiving any of the funds directly from a service provider listed on any of the FCC Forms 471 filed by this Billed Entity for this funding year?	No
Has a service provider listed on any of the FCC Forms 471 filed by this Billed Entity for this funding year assisted you in locating funds needed to pay your non-discounted share?	No

I certify an FCC Form 470 was posted and that any related RFP was made available for at least 28 days before considering all bids received and selecting a service provider. I certify that all bids submitted were carefully considered and the most cost-effective service offering was selected, with price being the primary factor considered, and is the most cost-effective means of meeting educational needs and technology goals.

I certify that the entity responsible for selecting the service provider(s) has reviewed all applicable FCC, state, and local procurement/competitive bidding requirements and that the entity or entities listed on this application have complied with them.

I certify that the services the applicant purchases at discounts provided by 47 U.S.C. § 254 will be used primarily for educational purposes, see 47 C.F.R. § 54.500 and will not be sold, resold or transferred in consideration for money or any other thing of value, except as permitted by the Commission's rules at 47 C.F.R. § 54.513. Additionally, I certify that the entity or entities listed on this application have not received anything of value or a promise of anything of value, as prohibited by the Commission's rules at 47 C.F.R. § 54.503(d), other than services and equipment sought by means of this form, from the service provider, or any representative or agent thereof or any consultant in connection with this request for services.

I certify that I and the entity(ies) I represent have complied with all program rules and I acknowledge that failure to do so may result in denial of discount funding and/or cancellation of funding commitments. There are signed contracts or other legally binding agreements covering all of the services listed on this FCC Form 471 except for those services provided under non-contracted tariffed or month-to-month arrangements. I acknowledge that failure to comply with program rules could result in civil or criminal prosecution by the appropriate law enforcement authorities.

I acknowledge that the discount level used for shared services is conditional, for future years, upon ensuring that the most disadvantaged schools and libraries that are treated as sharing in the service, receive an appropriate share of benefits from those services.

I certify that I will retain required documents for a period of at least 10 years (or whatever retention period is required by the rules in effect at the time of this certification) after the later of the last day of the applicable funding year or the service delivery deadline for the associated funding request. I acknowledge that I may be audited pursuant to participation in the schools and libraries program. I certify that I will retain all documents necessary to demonstrate compliance with the statute and Commission rules regarding the application for, receipt of, and delivery of services receiving schools and libraries discounts, and that if audited, I will make such records available to USAC.

I certify that I am authorized to order telecommunications and other supported services for the eligible entity(ies) listed on this application. I certify that I am authorized to submit this request on behalf of the eligible entity(ies) listed on this application, that I have examined this request, that all of the information on this form is true and correct to the best of my knowledge, that the entities that are receiving discounts pursuant to this application have complied with the terms, conditions and purposes of the program, that no kickbacks were paid to anyone and that false statements on this form can be punished by fine or forfeiture under the Communications Act, 47 U.S.C. §§ 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. § 1001 and civil violations of the False Claims Act.

I acknowledge that FCC rules provide that persons who have been convicted of criminal violations or held civilly liable for certain acts arising from their participation in the schools and libraries support mechanism are subject to suspension and debarment from the program. I will institute reasonable measures to be informed, and will notify USAC should I be informed or become aware that I or any of the entities listed on this application, or any person associated in any way with my entity and/or the entities listed on this application, is convicted of a criminal violation or held civilly liable for acts arising from their participation in the schools and libraries support mechanism.

I certify that if any of the Funding Requests on this FCC Form 471 are for discounts for products or services that contain both eligible and ineligible components, that I have allocated the eligible and ineligible components as required by the Commission's rules at 47 C.F.R. § 54.504.

Notice

Section 54.504 of the Federal Communications Commission's rules requires all schools and libraries ordering services that are eligible for and seeking universal service discounts to submit an application for such discounts by filing this Services Ordered and Certification Form (FCC Form 471) with the Universal Service Administrator. 47 C.F.R. § 54.504. The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended. 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the application requirements for universal service discounts contained in 47 C.F.R. § 54.504. Schools and libraries must file this form themselves or as part of a consortium. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The FCC is authorized under the Communications Act of 1934, as amended, to collect the information we request in this form. We will use the information you provide to determine whether approving your application for universal service discounts is in the public interest. If we believe there may be a violation or a potential violation of any applicable statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation or order. In certain cases, the information in your application for universal service discounts may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government is a party of a proceeding before the body or has an interest in the proceeding. In addition, consistent with the Communications Act of 1934, FCC regulations and orders, the Freedom of Information

Act, 5 U.S.C. § 552, or other applicable law, information provided in or submitted with this form or in response to subsequent inquiries may be disclosed to the public. If you owe a past due debt to the Federal government, the information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide the information to these agencies through the matching of computer records when authorized. If you do not provide the information we request on the form, the FCC or the Universal Service Administrator may delay processing of your application for universal service discounts or may return your application without action. The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, et seq. Public reporting burden for this collection of information is estimated to average 4.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, DC 20554. We also will accept your comments via the email if you send them to PRA@FCC.gov. DO NOT SEND COMPLETED WORKSHEETS TO THESE ADDRESSES.

Authorized Person

Title:	Computer Tech	Name:	Teresa Erickson
Phone:	580-244-3138	Email:	terickson@smithville.k12.ok.us
Address:	100 MAIN STREET SMITHVILLE OK 74957	Employer:	Teresa Erickson

Certified Timestamp

18-May-2016 14:25:27 EDT

EXHIBIT 3

FCC Form 474

Do not write in this space.

Approved by OMB
OMB Control No. 3060 – 0856
Estimated time per response: 1.0 hour

Please read instructions before completing

**Schools and Libraries Universal Service
Service Provider Invoice FCC Form 474**

Service Provider Form Identifier

05012017

(Create an identifier for your own reference)

FCC Form 474 Invoice

2587820

(To be inserted by administrator)

Block 1: Service Provider Information

- | | | | |
|---|----------------|----------------------------|--------|
| 1. Service Provider Name | | Pine Cellular Phones Inc | |
| 2. Service Provider Identification Number (SPIN) | | 143006198 | |
| 3. Contact Person's Name | | Jane Merz | |
| 4. Contact Telephone Number | Area Code: 580 | Phone Number: 5843100 Ext. | |
| Contact Fax Number | Area Code: 580 | Fax Number: 5849039 | |
| Contact Email Address jane@pinetelephone.com | | | |
| 5. Total Invoice Amount (total of Block 2, Column 13) | | | 819000 |

Page 1 of 4

FCC Form 474

July 2016

SPIN <u>143006198</u>
Service Provider Form Identifier <u>05012017</u>
Contact Person <u>Jane Merz</u>
Contact Telephone Number <u>580-5843100</u>

Block 2: Funding Request Number Information

6. FCC Form 471 Application Number (from Funding Commitment Decision Letter)	7. Funding Request Number (FRN) (from Funding Commitment Decision Letter)	8. Bill Frequency (e.g., Monthly, Quarterly, Annually, One-time, Other)	9. Customer Billed Date (mm/yyyy)	10. Shipping Date to Customer or Last Day of Work Performed (mm/dd/yyyy)	11. Total (Undiscounted) Amount for Service per FRN	12. Discount Rate	13. Amount Billed to USAC (Column 11 multiplied by Column 12)
<p>For each FRN, there should be an entry in Column 9 or Column 10 but NOT BOTH</p>							
161041646	1699100164	MONTHLY	05/01/2017		910000	90	819000

TOTAL REIMBURSEMENT AMOUNT TO BE ENTERED INTO ITEM 5

Service Provider Invoice FCC Form 474**Service Provider Form Identifier** 05012017**Contact Person** Jane Merz**Contact Telephone Number** 580-5843100**Block 3: Service Provider Certifications & Signature**

I declare under penalty of perjury that the foregoing is true and correct and that I am authorized to submit this Service Provider Invoice Form (FCC Form 474) and acknowledge to the best of my knowledge, information and belief, as follows:

- ✓ A. I certify that this Service Provider is in compliance with the rules and orders governing the schools and libraries universal service support program and I acknowledge that failure to be in compliance and remain in compliance with those rules and orders may result in the denial of discount funding and/or cancellation of funding commitments.
- ✓ B. I certify that the certifications made on the Service Provider Annual Certification Form (FCC Form 473) by this Service Provider are true and correct.
- ✓ C. I acknowledge that failure to comply with the rules and orders governing the schools and libraries universal service support program could result in civil or criminal prosecution by law enforcement authorities.

14. Signature of authorized person ✓**15. Date** 5/12/2017**16. Printed name of authorized person**
Jane Merz**17. Title or position of authorized person**
Accounting Supervisor**18. Telephone number of authorized person**
580-5843100**19. Address of authorized person**
P O Box 548
Broken Bow OK, 74728

EXHIBIT 4

FCC Form 474

Do not write in this space.

Approved by OMB
OMB Control No. 3060 – 0856
Estimated time per response: 1.0 hour

**Schools and Libraries Universal Service
Service Provider Invoice FCC Form 474**

Please read instructions before completing

Service Provider Form Identifier

050117

(Create an identifier for your own reference)

FCC Form 474 Invoice

2587985

(To be inserted by administrator)

Block 1: Service Provider Information

1. Service Provider Name Pine Cellular Phones Inc	
2. Service Provider Identification Number (SPIN) 143006198	
3. Contact Person's Name Jane Merz	
4. Contact Telephone Number	Area Code: 580 Phone Number: 5843100 Ext.
Contact Fax Number	Area Code: 580 Fax Number: 5849039
Contact Email Address jane@pinetelephone.com	
5. Total Invoice Amount (total of Block 2, Column 13) 740718	

Page 1 of 4

FCC Form 474

July 2016

SPIN	143006198
Service Provider Form Identifier	050117
Contact Person	Jane Merz
Contact Telephone Number	580-5843100

Block 2: Funding Request Number Information

6. FCC Form 471 Application Number (from Funding Commitment Decision Letter)	7. Funding Request Number (FRN) (from Funding Commitment Decision Letter)	8. Bill Frequency (e.g., Monthly, Quarterly, Annually, One-time, Other)	9. Customer Billed Date (mm/yyyy)	10. Shipping Date to Customer or Last Day of Work Performed (mm/dd/yyyy)	11. Total (Undiscounted) Amount for Service per FRN	12. Discount Rate	13. Amount Billed to USAC (Column 11 multiplied by Column 12)
161032874	1699068414	ONE-TIME	05/01/2017		823020	90	740718

For each FRN, there should be an entry
in
Column 9 or Column 10 but **NOT**
BOTH

TOTAL REIMBURSEMENT AMOUNT TO BE ENTERED INTO ITEM 5


Service Provider Invoice FCC Form 474	
Service Provider Form Identifier <u>050117</u>	
Contact Person <u>Jane Merz</u>	
Contact Telephone Number <u>580-5843100</u>	
Block 3: Service Provider Certifications & Signature	
I declare under penalty of perjury that the foregoing is true and correct and that I am authorized to submit this Service Provider Invoice Form (FCC Form 474) and acknowledge to the best of my knowledge, information and belief, as follows:	
<ul style="list-style-type: none">✓ A. I certify that this Service Provider is in compliance with the rules and orders governing the schools and libraries universal service support program and I acknowledge that failure to be in compliance and remain in compliance with those rules and orders may result in the denial of discount funding and/or cancellation of funding commitments.✓ B. I certify that the certifications made on the Service Provider Annual Certification Form (FCC Form 473) by this Service Provider are true and correct.✓ C. I acknowledge that failure to comply with the rules and orders governing the schools and libraries universal service support program could result in civil or criminal prosecution by law enforcement authorities.	
14. Signature of authorized person 	15. Date 5/12/2017
16. Printed name of authorized person Jane Merz	
17. Title or position of authorized person Accounting Supervisor	
18. Telephone number of authorized person 580-5843100	
19. Address of authorized person P O Box 548 Broken Bow OK, 74728	

EXHIBIT 5

REDACTED

From: jane <jane@pinetelephone.com>
Sent: Tuesday, March 6, 2018 8:21 AM
To: 'Lee Brown' <leebrown@pine-net.com>
Subject: FW: SCHOOLS AND LIBRARIES PROGRAM REMITTANCE STATEMENT

FYI

Jane Merz
Accounting Supervisor
Pine Telephone Co Inc
580-584-3100

From: CustomerSupport@usac.org <CustomerSupport@usac.org>
Sent: Monday, March 05, 2018 3:57 PM
To: jane@pinetelephone.com
Subject: SCHOOLS AND LIBRARIES PROGRAM REMITTANCE STATEMENT



Universal Service
Administrative Co.

Attached are the electronic disbursement remittance statements for payments made from the universal service fund. Please do not respond to this message. If you have any questions or problems with the format of these statements, please contact our Customer Operations team at (888) 641-8722.

If you have questions or difficulty opening or understanding the format of your electronic remittance statement, please refer to the [electronic remittance statement instructions](#).

Thank You,

USAC Customer Operations
(888) 641-8722 (Toll Free)

Customer Operations | www.usac.org

143006198|Pine Cellular
Phones|jane@pinetelephone.com|usacstatement@universalservice.org|2|\$0.00|
Schools And Libraries|As of March 05, 2018
SPI|143006198|05012017|1699100164|"SLD Invoice Number:2587820;Line Item
Detail Number:8599290;Amount Requested:819000.00;Upfront Payment not
approved for this FRN;1234;"|062017|\$0.00
SPI|143006198|050117|1699068414|"SLD Invoice Number:2587985;Line Item
Detail Number:8599524;Amount Requested:740718.00;Upfront Payment not
approved for this FRN;1234;"|062017|\$0.00

Your Total Actual Disbursement: \$0.00.

EXHIBIT 6

Records
Customer Service Cases
#211643

Reopen Case This function allows you to reopen a case.

Summary

News

Related Actions

Case Details Hide section contents

Topic

FCC Form 474 - SPI - Status Inquiry

Status

Closed

Priority

Medium

Inquiry Type

Phone

Created By

User has been deactivated

Created On

12/15/2017 9:40 AM EST

Organization

Pine Cellular Phones

Case Description Hide section contents

Description

I would like to check the status of a couple of invoices

Case Artifacts Hide section contents

Documents

Name Sortable column, activate
to sort ascending

Uploaded By Sortable column,
activate to sort ascending

Upload Date Sortable column, sorted
descending, activate to sort ascending

No items available

Attachments

Attachment Attachment Type

No items available

Case Thread Hide section contents

User Sortable
column, activate
to sort
ascending

Note Sortable column, activate to sort ascending

Date Sortable
column, sorted
descending,
activate to sort
ascending

USAC

Jane, Thank you for contacting USAC regarding your invoices. I apologize for the confusion and the length of time this case went unanswered. Your invoices were not being held due to a COMAD investigation. It appears the invoices were requesting upfront charges that were not properly notated on the FCC Form 471. Since these requests were for an FY 2016 application the window has now closed, but you are able to file an appeal with the FCC to grant you an extension due to misinformation. If you have any questions or believe this case was closed in error, please contact CSB at (888)203-8100.

6/29/2018 1:14
PM EDT

USAC

Good Afternoon, I have confirmed your invoice has not been processed. Our records indicate there is a potential rule violation that is being reviewed and which may result in a commitment adjustment (COMAD). At this time, I do not have more details. If further information is needed in order for the review to be completed, you will be contacted by the COMAD Team. This case is now closed. Thank you.

12/22/2017 1:55
PM EST

Case Contact

Case Contact

Jane Merz

EXHIBIT 7

DECLARATION

I, Delbert McBroom, do hereby declare as follows:

1. I am the Superintendent of the Smithville I-14 School District.
2. Pine Cellular Phones ("Pine") installed fiber optic cable to Smithville School in the Spring of 2017.
3. Smithville School started using the Internet access service provided by Pine over the fiber optic cable on June 13, 2017.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 6, 2018.


Delbert McBroom

EXHIBIT 8

DECLARATION

I, Don Mullinex, do hereby declare as follows:

1. I am the Superintendent of the Battiest I-71 School District.
2. Pine Cellular Phones ("Pine") installed fiber optic cable to Battiest School in the Spring of 2017.
3. Battiest School started using the Internet access service provided by Pine over the fiber optic cable on June 21, 2017.

I declare under penalty of perjury that the foregoing is true and correct. Executed on August 6, 2018.


Don Mullinex

EXHIBIT 9

Records > Funding Requests

Pine Telephone Special Construction - 1699100164

[Service Agreement Details](#)
[FRN Line Items](#)
[FCDL Comments](#)
[FCC Forms](#)
[Appeals](#)
[SPIN Changes](#)
[Service Substitutions](#)
[News](#)
[Related Actions](#)

Funding Request Details

FRN	1699100164	Service Type	Data Transmission and/or Internet Access
Nickname	Pine Telephone Special Construction	Service Provider	Pine Cellular Phones (SPIN: 143006198)
FCC Form 471	#161041646	Service Start Date	7/1/2017
Applicant	SMITHVILLE I-14 SCHOOL DISTRICT (BEN: 140421)	Service End Date	6/30/2017
		Status	Funded
		Service Delivery Deadline	6/30/2017
		Invoice Deadline Date	10/30/2017

Fiber Request Key Information

Fiber Type	Lit
Fiber Sub-type	Special Construction

Special Construction Key Information

Total Project Plant Route Feet	91000	Total Strands	144
Average Cost Per Foot of Outside Plant	\$10.00	Number of E-rate Eligible Strands	4

State/Tribal E-Rate Funding Match

Is there a state or tribal match available for your E-rate special construction funding request? No

Installment Payment Agreement

Total Amount Financed	Total Number of Terms (In Months)
\$910,000.00	48

Narrative

Special construction of 91000 feet of fiber facilities to provide fiber fed internet access to Smithville school. This request is for special construction only, because it will be too great of a project to finish in the time frame needed to provide Smithville School with monthly Internet access for the 2016-2017 school year, therefore; we have requested our monthly Internet service through another provider for the 2016-2017 school year.

FRN Calculation

One-Time Charges		Total Requested Amount	
Total One-Time Charges	\$910,000.00	Total Pre-Discount Charges	\$910,000.00
Total Ineligible One-Time Charges	- \$0.00	Discount Rate	90%
Total Eligible Pre-Discount One-Time Charges	= \$910,000.00	Funding Commitment Request	= \$819,000.00

Invoicing Status

Ready for Invoicing? Yes

Records Funding Requests

Pine Telephone Special Construction - 1699100164

Summary Service Agreement Details

FCDL Comments

FCC Forms

Appeals

SPIN Changes

Service Substitutions

News

Related Actions

All FRN Line Items / Line Item #1699100164.001

Product and Service Details

Purpose Data connection(s) for an applicant's hub site to an Internet Service Provider or state/regional network where Internet access service is billed separately

Type of Connection Switched Multimegabit Data Service

Function Fiber

Bandwidth Speed

Download Speed 1 Gbps

Upload Speed 1 Gbps

Connection Information

Basic firewall protection No

Connection supports service to a school, library or NIF No

Connection directly to a school, library or a NIF No

Connection used by All buildings/sites listed

Cost Calculation for FRN Line Item #1699100164.001

Monthly Cost

Monthly Recurring Unit Cost \$0.00

Monthly Recurring Unit Ineligible Costs \$0.00

Monthly Recurring Unit Eligible Costs = \$0.00

Monthly Quantity 1

Total Monthly Eligible Recurring Costs = \$0.00

Months of Service x 0

Total Eligible Recurring Costs = \$0.00

One-Time Cost

One-time Unit Cost \$910,000.00

One-time Ineligible Unit Cost \$0.00

One-time Eligible Unit Cost = \$910,000.00

One-time Quantity 1

Total Eligible One-time Costs = \$910,000.00

Summary

Total Eligible Recurring Costs \$0.00

Total Eligible One-time Costs + \$910,000.00

Pre-Discount Extended Eligible Line Item Cost = \$910,000.00

Recipients of Service

Entity

SMITHVILLE ELEMENTARY SCHOOL

SMITHVILLE JR-SR HIGH SCHOOL

Entity Number

85369

85370

Records > Funding Requests

Pine Telephone Special Construction - 1699100164

Summary

FRN Line Items

FCDL Comments

FCC Forms

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SPIN Changes

Service Substitutions

News

Related Actions

Service Agreement Summary - Month-to-Month

Establishing FCC Form 470 # #160007790

Account Number 5802443333

Service Provider Pine Cellular Phones (SPIN: 143006198)

Pricing Confidentiality

There is no rule, statute, or other restriction which prohibits publication of the specific pricing information for this service agreement.

Service Agreement Information (Additional)

What is the service start date?

Jul 1, 2017

The date when services will start in this Funding Year (e.g., July 1, 2016)

When will the services end?

Jun 30, 2017

EXHIBIT 10

Records > Funding Requests

Pine - 1699068414

Service Agreement Details FRN Line Items FCDL Comments FCC Forms Appeals SPIN Changes Service Substitutions News

Related Actions

Funding Request Details

FRN 1699068414	Service Type Data Transmission and/or Internet Access
Nickname Pine	Service Provider Pine Cellular Phones (SPIN: 143006198)
FCC Form 471 #161032874	Service Start Date 7/1/2017
Applicant BATTIEST INDEP SCHOOL DIST 71 (BEN: 140293)	Contract Expiration Date 6/30/2017
	Status Funded
	Service Delivery Deadline 6/30/2017
	Invoice Deadline Date 10/30/2017

Fiber Request Key Information

Fiber Type Lit

Fiber Sub-type Special Construction

Special Construction Key Information

Total Project Plant Route Feet 58000	Total Strands 144
Average Cost Per Foot of Outside Plant \$13.96	Number of E-rate Eligible Strands 4

State/Tribal E-Rate Funding Match

Is there a state or tribal match available for your E-rate special construction funding request? No

Installment Payment Agreement

Total Amount Financed	Total Number of Terms (In Months)
\$82,302.00	48

Narrative

Special construction of 58,000 feet of fiber facilities to provide fiber fed internet access to Battiest school. This request is for special construction only, because it will be too great of a project to finish in the time frame needed to provide Battiest School with monthly Internet access for the 2016-2017 school year, therefore; we have requested our monthly Internet service through another provider for the 2016-2017 school year.

FRN Calculation

One-Time Charges	Total Requested Amount
Total One-Time Charges \$870,000.00	Total Pre-Discount Charges \$823,020.00
Total Ineligible One-Time Charges - \$46,980.00	Discount Rate 90%
Total Eligible Pre-Discount One-Time Charges = \$823,020.00	Funding Commitment Request = \$740,718.00

Invoicing Status**Ready for Invoicing?** Yes

Records / Funding Requests

Pine - 1699068414

Summary

FRN Line Items

FCDL Comments

FCC Forms

Appeals

SPIN Changes

Service Substitutions

News

Related Actions

Contract Summary - Pine

Contract Number**Account Number** 580-241-7810**Establishing FCC Form 470 #** #160033760**Service Provider** Pine Cellular Phones (SPIN: 143006198)**Award Date** 4/21/2016**Includes Voluntary Extensions?** No**Expiration Date (All Extensions)****Remaining Voluntary Extensions****Total Remaining Contract Length**

Pricing Confidentiality

There is no rule, statute, or other restriction which prohibits publication of the specific pricing information for this contract.

Contract Information (Additional)

What is the service start date?

Jul 1, 2017

What is the date your contract expires for the current term of the contract?

Jun 30, 2017

The date when services will start is the Funding Year, e.g., July 1, 2016.

Records > Funding Requests

Pine - 1699068414

Summary Service Agreement Details

FCDL Comments

FCC Forms

Appeals

SPIN Changes

Service Substitutions

News

Related Actions

All FRN Line Items / Line Item #1699068414.001

Product and Service Details

Purpose Data connection(s) for an applicant's hub site to an Internet Service Provider or state/regional network where Internet access service is billed separately

Type of Connection Switched Multimegabit Data Service

Function Fiber

Bandwidth Speed

Download Speed 1 Gbps

Upload Speed 1 Gbps

Connection Information

Basic firewall protection No

Connection supports service to a school, library or NIF No

Connection directly to a school, library or a NIF No

Connection used by All buildings/sites listed

Cost Calculation for FRN Line Item #1699068414.001

Monthly Cost		One-Time Cost	
Monthly Recurring Unit Cost	\$0.00	One-time Unit Cost	\$870,000.00
Monthly Recurring Unit Ineligible Costs	\$0.00	One-time Ineligible Unit Cost	\$46,980.00
Monthly Recurring Unit Eligible Costs	= \$0.00	One-time Eligible Unit Cost	= \$823,020.00
Monthly Quantity	1	One-time Quantity	1
Total Monthly Eligible Recurring Costs	= \$0.00	Total Eligible One-time Costs	= \$823,020.00
Months of Service	x 0	Summary	
Total Eligible Recurring Costs	= \$0.00	Total Eligible Recurring Costs	\$0.00
		Total Eligible One-time Costs	+ \$823,020.00
		Pre-Discount Extended Eligible Line Item Cost	= \$823,020.00

Recipients of Service

Entity	Entity Number
BATTIEST ELEMENTARY SCHOOL	85110
BATTIEST HIGH SCHOOL	85111

Records Funding Requests

Pine - 1699068414

Summary Service Agreement Details FRN Line Items

Related Actions

FCC Forms

Appeals

SPIN Changes

Service Substitutions

News

Relevant Dates & Deadlines**FCDL Date**

12/12/2016

FCC Form 486 Deadline

10/29/2017

FCDL Comments**No.**

MR1

Comment

Approved as submitted

EXHIBIT 11

REDACTED

From: Teresa Erickson [mailto:terickson@smithville.k12.ok.us]

Sent: Tuesday, October 16, 2018 12:05 PM

To: Jerry Whisenhunt <jwhiz@pine-net.com>

Subject: 486

To Whom It May Concern:

Concerning the 2016/2017 ERATE form 486 for special construction, I accidentally put the wrong start date on the form 486. June of 2017 was the original plan to move to the new service but it has been such a long time since this was filed I believe I entered the wrong date because I was working on the 2017/2018 funding year at that time. I did not realize this until it was pointed out by USAC that I had the wrong date entered on the 486.

Sincerely,

Teresa Erickson



Virus-free. www.avast.com

EXHIBIT 12

REDACTED

From: Candace Smith [mailto:smithc@battiest.k12.ok.us]

Sent: Tuesday, October 16, 2018 12:22 PM

To: jwhiz@pine-net.com

Subject: Erate/Date Incorrect

To Whom It May Concern:

Unfortunately, the wrong start date was accidentally entered on the Year 2016 Form 486 for Pine Telephone Special Construction.

The start date was actually June 2017 rather than July 1, 2017. Due to the longevity of E-Rate approval, I was already working on the next years E-Rate which is why I believe I entered the wrong date.

I apologize for the error.

Candace Smith



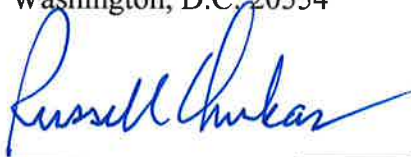
Virus-free. www.avast.com

CERTIFICATE OF SERVICE

I, Russell D. Lukas, hereby certify that on October 23, 2018, I caused a copy of the foregoing REQUEST FOR STREAMLINED REVIEW to be served via first-class mail and email upon the following:

Universal Service Administrative Company
Attn: Schools and Libraries Program
700 12th Street, N.W., Suite 900
Washington, D.C. 20005

Gabriela L. Gross
Federal Communications Commission
Telecommunications Access Policy Division
445 12th Street, S.W.
Washington, D.C. 20554



Russell D. Lukas